

# Agenda

## Item #9



STATE OF MAINE  
COMMISSION ON GOVERNMENTAL ETHICS  
AND ELECTION PRACTICES  
135 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0135

To: Commissioners

From: Jonathan Wayne, Executive Director

Date: April 15, 2011

Re: Meeting Schedule for Spring and Summer 2011

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The Commission staff wishes to discuss tentatively the Commission's meeting schedule for May, June, and July, and (if possible) the remainder of the year. In odd-numbered years when there is no primary or general election, the Commission's meetings statute (attached) does not require the Commission to meet monthly.

In the next few months, the most time-sensitive projects of the Commission will be:

- During the spring and summer, the Commission's auditor will be completing audit reports of 2010 candidates. While most will be no-exception reports, a handful of these audits could include recommended findings of violation. The candidates will presumably be interested in timely conclusion of these matters.
- The Commission is accepting comments on proposed rule amendments through Friday, May 6. After you have time to consider the comments, the staff recommends adopting the final amendments at a meeting in late May or June.
- In June or early July, the U.S. Supreme Court is expected to issue a decision in McComish v. Bennett concerning whether states' payments of public campaign funds may be triggered on spending by traditionally financed candidates and independent spenders.

If the Maine Legislature approves LD 848 (attached), it likely will be necessary for the Commission to study the Maine Clean Election Act (MCEA) to address the McComish decision and to issue a report on its findings, including any suggested changes to the MCEA. While much of the work can be handled at the staff level, some consideration of this issue will be required by the Commissioners.

If you decide to hold a meeting in May, I have confirmed that May 23 at 9:00 a.m. would work for most Commissioners.

Thank you for your consideration of this matter.

**CHAPTER 13**  
**CAMPAIGN REPORTS AND FINANCES**

**SUBCHAPTER I**  
**GENERAL PROVISIONS**

**21A § 1001. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Commission.** "Commission" means the Commission on Governmental Ethics and Election Practices established under Title 1, section 1002.

**2. Election.** "Election" means any primary, general or special election for state, county or municipal offices as defined in Title 30-A, section 2502, subsection 1.

**3. Person.** "Person" means an individual, committee, firm, partnership, corporation, association or organization.

**21A § 1002. Meetings of commission**

**1. Meeting schedule.** The commission shall meet in Augusta for the purposes of this chapter at least once per month in any year in which primary and general elections are held and every two weeks in the 60 days preceding an election. In the 28 days preceding an election, the commission shall meet in Augusta within one calendar day of the filing of any complaint or question with the commission. Agenda items in the 28 days preceding an election must be decided within 24 hours of the filing unless all parties involved agree otherwise.

**2. Telephone meetings.** The commission may hold meetings over the telephone if necessary, as long as the commission provides notice to all affected parties in accordance with the rules of the commission and the commission's office remains open for attendance by complainants, witnesses, the press and other members of the public. Notwithstanding Title 1, chapter 13, telephone meetings of the commission are permitted:

A. During the 28 days prior to an election when the commission is required to meet within 24 hours of the filing of any complaint or question with the commission; or

B. To address procedural or logistical issues before a monthly meeting, such as the scheduling of meetings, deadlines for parties' submission of written materials, setting of meeting agenda, requests to postpone or reschedule agenda items, issuing subpoenas for documents or witnesses and recusal of commission members.



**3. Other meetings.** The commission shall meet at other times on the call of the Secretary of State, the President of the Senate, the Speaker of the House or the chair or a majority of the members of the commission, as long as all members are notified of the time, place and purpose of the meeting at least 24 hours in advance.

**4. Office hours before election.** The commission office must be open with adequate staff resources available to respond to inquiries and receive complaints from 8 a.m. until at least 5:30 p.m. on the Saturday, Sunday and Monday immediately preceding an election, and from 8 a.m. until at least 8 p.m. on election day.

## **21A § 1003. Investigations by commission**

**1. Investigations.** The commission may undertake audits and investigations to determine the facts concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. For this purpose, the commission may subpoena witnesses and records whether located within or without the State and take evidence under oath. A person or political action committee that fails to obey the lawful subpoena of the commission or to testify before it under oath must be punished by the Superior Court for contempt upon application by the Attorney General on behalf of the commission.

**2. Investigations requested.** A person may apply in writing to the commission requesting an investigation concerning the registration of a candidate, treasurer, political committee or political action committee and contributions by or to and expenditures by a person, candidate, treasurer, political committee or political action committee. The commission shall review the application and shall make the investigation if the reasons stated for the request show sufficient grounds for believing that a violation may have occurred.

### **2-A. Confidentiality. (REPEALED)**

**3. State Auditor.** The State Auditor shall assist the commission in making investigations and in other phases of the commission's duties under this chapter, as requested by the commission, and has all necessary powers to carry out these responsibilities.

**3-A. Confidential records.** Investigative working papers of the commission are confidential and may not be disclosed to any person except the members and staff of the commission, the subject of the audit or investigation, other entities as necessary for the conduct of an audit or investigation and law enforcement and other agencies for purposes of reporting, investigating or prosecuting a criminal or civil violation. For purposes of this subsection, "investigative working papers" means documents, records and other printed or electronic information in the following limited categories that are acquired, prepared or maintained by the commission during the conduct of an investigation or audit:

A. Financial information not normally available to the public;

B. Information belonging to a party committee, political action committee, ballot question committee, candidate or candidate's authorized committee, that if disclosed, would reveal sensitive political or campaign information;

# Calendar for year 2011 (United States)

<b>January</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 4:● 12:● 19:○ 26:●	<b>February</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 2:● 11:● 18:○ 24:●	<b>March</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 4:● 12:● 19:○ 26:●
<b>April</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 3:● 11:● 17:○ 24:●	<b>May</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 3:● 10:● 17:○ 24:●	<b>June</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 1:● 8:● 15:○ 23:●
<b>July</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 1:● 8:● 15:○ 23:● 30:●	<b>August</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 6:● 13:○ 21:● 28:●	<b>September</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 4:● 12:○ 20:● 27:●
<b>October</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 3:● 11:○ 19:● 26:●	<b>November</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 2:● 10:○ 18:● 25:●	<b>December</b> Su Mo Tu We Th Fr Sa 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 2:● 10:○ 17:● 24:●

## Holidays and Observances:

Jan 1 New Year's Day	May 30 Memorial Day	Nov 11 Veterans Day
Jan 17 Martin Luther King Day	Jun 19 Father's Day	Nov 24 Thanksgiving Day
Feb 14 Valentine's Day	Jul 4 Independence Day	Dec 24 Christmas Eve
Feb 21 Presidents' Day	Sep 5 Labor Day	Dec 25 Christmas Day
Apr 24 Easter Sunday	Oct 10 Columbus Day (Most regions)	Dec 26 'Christmas Day' observed
May 8 Mother's Day	Oct 31 Halloween	

Calendar generated on [www.timeanddate.com/calendar](http://www.timeanddate.com/calendar)

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **Resolve, Directing the Commission on Governmental Ethics and Election Practices To Study Modifying the Maine Clean Election Act**

**Sec. 1 Commission on Governmental Ethics and Election Practices to study the Maine Clean Election Act. Resolved:** That the Commission on Governmental Ethics and Election Practices shall study the Maine Clean Election Act to address any adverse rulings by the United States Supreme Court in the case of McComish v. Bennett, No. CV-08-1550-PHX-ROS (D. Ariz. Jan. 20, 2010); and be it further

**Sec. 2 Report. Resolved:** That the Commission on Governmental Ethics and Election Practices shall submit a report of its findings including any suggested changes to the Maine Clean Election Act pursuant to the study under section 1 by October 15, 2011 to the Joint Standing Committee on Veterans and Legal Affairs. The Joint Standing Committee on Veterans and Legal Affairs shall report out legislation based on the report by December 1, 2011 for presentation to the Second Regular Session of the 125th Legislature.

### **SUMMARY**

This resolve directs the Commission on Governmental Ethics and Election Practices to study the Maine Clean Election Act to address any adverse rulings by the United States Supreme Court in the case of McComish v. Bennett, No. CV-08-1550-PHX-ROS (D. Ariz. Jan. 20, 2010) and to report its findings, including any suggested changes, to the Joint Standing Committee on Veterans and Legal Affairs by October 15, 2011. The Joint Standing Committee on Veterans and Legal Affairs shall report out legislation based on the report by December 1, 2011 for presentation to the Second Regular Session of the 125th Legislature.